

§ 20.23

demand letter to the debtor, provide the name of an agency employee who can provide a full explanation of the claim.

§ 20.23 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the initial demand letter specified in § 20.22, the debtor may request to examine and copy agency records pertaining to the debt.

§ 20.24 Opportunity for repayment.

(a) The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the agency head (or designee) and is in a written form signed by such debtor. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should effect an offset unless the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 20.25 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the determination concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the determination. If the debtor alleges that the agency's information relating to the debt is not accurate, timely, relevant or complete, such debtor shall

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provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that:

(1) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) An individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or

(3) In other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Agencies may effect an administrative offset against a payment to be made to a debtor prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the agency's ability to collect the debt; for example, if the time before the payment is to be made would not reasonably permit the completion of due process procedures. Offset prior to completion of due process procedures must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not owed to the agency should be promptly refunded.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which administrative offset will begin. The notification shall also, if appropriate, indicate any changes in the information